

Sixth Appellate District

San Jose, California

MONDAY, MAY 18, 2009

(no minute approved orders)

TUESDAY, MAY 19, 2009

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Elia, J.; and Jossie Michel, Deputy Clerk.

H032858 In re MILLER on Habeas Corpus

Cause called and argued by Amanda Murray, Deputy Attorney General, appearing for Appellant and by Steve Defilippis appearing for Respondent. Cause ordered submitted.

Premo, J. leaves the bench and Mihara, J. takes the bench.

H032497 PEOPLE v. DANIELS

Cause called and argued by Julie Schumer appearing for Appellant and by Linda Murphy, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Mihara, J. leaves the bench and Bamattre-Manokian, J. takes the bench.

H032436 LEE, et al. v. KUO

Cause called and argued by Joseph D. Kostmayer appearing for Appellants and by Mark B. Fredkin appearing for Respondents and by Craig S. Fox appearing for Respondent Chang. Cause ordered submitted.

H032721 4900 PATRICK HENRY DRIVE ASSOCIATES v. KEITH ROOFING, INC.

Cause called and argued by John C. Gorman appearing for Appellant and Michael T. Kennedy appearing for Respondent. Cause ordered submitted.

Rushing, P.J. and Elia, J. leave the bench and Mihara, J. and McAdams, J. take the bench.

H032445 PEOPLE v. CORTES

Cause called and argued by Carlo Andreani appearing for Appellant and by Ann P. Wathen, Deputy Attorney General, appearing for Respondent. Cause ordered submitted. Court recesses until 1:30 p.m.

Sixth Appellate District

San Jose, California

Tuesday, May 19, 2009 (continued)

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; Mihara, J.; Duffy, J.; and Jane Valdez Flor, Deputy Clerk.

H032185 PATTERSON v. DEPARTMENT OF MOTOR VEHICLES

Cause called and argued by Robert A. Harkness, Deputy Attorney General, appearing for Appellant and by Arthur Dudley appearing for Respondent. Cause ordered submitted.

H032188 FORCE v. DEPARTMENT OF MOTOR VEHICLES

Cause called and argued by Robert A. Harkness, Deputy Attorney General, appearing for Appellant and by Arthur Dudley appearing for Respondent. Cause ordered submitted.

H032566 RILEY v. MCDONALD, et al.

Cause called and argued by John P. McDonnell appearing for Appellant and by William G. Tiffany appearing for Respondents. Cause ordered submitted.

Mihara, J. leaves the bench and McAdams, J. takes the bench.

H033300 PEOPLE v. B.H.

Cause called and argued by Silas Geneson appearing for Appellant and by Michael E. Banister, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H032813 BENNETT, et al. v. FREDERICKSON, et al.

Cause called and argued by Sally Ann Williams appearing for Appellants and by Dennis M. Law appearing for Respondents. Cause ordered submitted. Court is adjourned.

The following cases are submitted this date:

H033293 PEOPLE v. GROUX

H033573 PEOPLE v. ADAMS

H032463 LEWIS on Habeas Corpus

The matter is remanded to the superior court with directions to modify its order granting Lewis's petition for writ of habeas corpus. The order shall be modified to direct the Governor to vacate his January 25, 2007 parole decision and invite him to conduct a new review of the Board's decision in light of the decisions in *In re Lawrence* (2008) 44 Cal.4th 1181 and *In re Shaputis* (2008) 44 Cal.4th 1241. As modified, the order is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed May 19, 2009

Sixth Appellate District

San Jose, California

Tuesday, May 19, 2009 (continued)

H033892 PEOPLE v. OTTINGER

The order of the trial court is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed May 19, 2009

H032868 NADKARNI v. NADKARNI

(Filed order publishing opinion.)
(Bamattre-Manoukian, Acting P.J., Mihara, J., McAdams, J.)

WEDNESDAY, MAY 20, 2009

(no minute approved orders)

THURSDAY, MAY 21, 2009

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Rushing, P.J.; Premo, J.; Duffy, J.; and Beth Miller, Deputy Clerk.

H030601 DRUMMOND, et al. v. TEMMERMAN, DESMARAIS & PHILLIPS, LLP, et al.

Cause called and argued by Michael Morissey appearing for Appellants and by Ellyn E. Nesbit appearing for Respondents. Cause ordered submitted.

Premo, J. leaves the bench and McAdams, J. takes the bench.

H032511 In re LOPEZ on Habeas Corpus

Cause called and argued by Dallas Sacher appearing for Petitioner and by Ronald E. Niver, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H031633 BRADBURY v. BIGGS CARDOSA ASSOCIATES, INC., et al.

Cause called and argued by Christopher Bradbury, Appellant appearing in pro per, and by Andrew D. Castricone appearing for Respondents. Cause ordered submitted. Court is adjourned.

H033289 VALLEY PALLET, INC. v. PECO PALLET, INC.

The appeal is dismissed. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Mihara, J.)
Filed May 21, 2009

Sixth Appellate District

San Jose, California

Thursday, May 21, 2009 (continued)

The following cases are submitted this date:

H033364 In re M.P.; D.F.C.S v. A.P.

H033669 PEOPLE v. H.C.

H032728 PEOPLE v. NGO

H033249 PEOPLE v. GUEVARA

H033152 PEOPLE v. HERNANDEZ

H033075 PEOPLE v. AMERICAN CONTRACTORS INDEMNITY COMPANY

H032597 PEOPLE v. FOSTER

H033104 PEOPLE v. SALDANA

H033457 PEOPLE v. CANNON

H033091 PEOPLE v. SANCHEZ-BARAJAS

H032728 PEOPLE v. NGO

The probation condition prohibiting defendant from possessing "any type of knife," is stricken. As modified, the judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed May 21, 2009

H033249 PEOPLE v. GUEVARA

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed May 21, 2009

H033902 P. D. v. SUPERIOR COURT; SANTA CLARA COUNTY DEPARTMENT OF FAMILY AND CHILDREN'S SERVICES

The petition for a writ of mandate is denied. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed May 21, 2009

H031423 AUGIAS CORPORATION v. KRUPSKI et al.

H032156 AUGIAS CORPORATION v. KRUPSKI et al.

The judgment is affirmed, and the trial court's order that Augias pays \$100,000 in attorney fees is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed May 21, 2009

H031275 AUGIAS CORPORATION v. BROWN

H032082 AUGIAS CORPORATION v. BROWN

The judgment is affirmed, and the order granting attorney fees to Brown in the amount of \$194,990.25 is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed May 21, 2009

Sixth Appellate District

San Jose, California

FRIDAY, MAY 22, 2009

H033469 PEOPLE v. CERVANTES

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed May 22, 2009

H033351 In re S.W.; D.F.C.S. v. M.N.

By the Court*:

Appellant's petition for rehearing is denied.
Filed: May 22, 2009
*Before Premo, Acting P.J., Elia, J. and Mihara, J.

H031689 PERDICHIZZI v. MARGARETICH

The order is affirmed. Costs on appeal are awarded to respondent. Respondent's motion for sanctions on appeal is denied. (not published)
(Elia, J.; We concur: Premo, Acting P.J., Mihara, J.)
Filed May 22, 2009

H032622 PEOPLE v. ABUNDIZ

The appeal is dismissed. (not published)
(Duffy, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed May 22, 2009